

Freedom of Information Act 2000 (Section 51)

Information notice

Date: **5 November 2019**

Public Authority: **Cabinet Office**

Address: **70 Whitehall**
London SW1A 2AS

Section 51

Under section 51 of the Freedom of Information Act 2000 (the "Act"), which is set out below, the Information Commissioner (the "Commissioner") has the power to serve a notice on a public authority requiring it to furnish her with any information she requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

she may serve the authority with a notice (in this Act referred to as "an information notice") requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference FS50853653, for a decision whether a request for information which the complainant has attempted to make to the Cabinet Office on a number of occasions in 2019 has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. This complaint centres around ongoing difficulties the complainant has experienced in making a request to the Cabinet Office using its procedures for those who are sight-impaired or who may have other

health-related or similar reasons for being unable to use its standard online or postal information access request mechanism.

3. The Cabinet Office has published a telephone number to facilitate information access requests in such circumstances.¹ A person can call the published number and, following instructions given, leave a message requesting a call back. As part of the procedure, they will then receive a call back from a member of staff who will take down their request and send a written version of the request to them for them to agree.
4. The complainant first wrote to the Commissioner about this on 5 May 2019. In correspondence between the Commissioner and the Cabinet Office it appeared that the complainant may have incorrectly transposed when noting it down. The Commissioner spoke to the complainant about this and the matter appeared to be resolved.
5. However, despite leaving a message as instructed, the complainant alleges that they have never received a call back. They alleged that they have tried to leave a message on a number of occasions in this manner.
6. If a requester is unable to make a request using this procedure because it is not functioning correctly, this would appear to be a contravention of section 16 of the Act, where a public authority is obliged to provide advice and assistance "to persons who propose to make, or have made, requests for information to it".
7. On 14 May 2019, the Commissioner wrote to the Cabinet Office and, in an email exchange, the Cabinet Office queried the difficulties that the complainant was experiencing because it had tested the equipment and it appeared to be working.
8. The Commissioner tried the number on the same date and it appeared to ring out rather than go through to voicemail. She wrote to the Cabinet Office to advise this difficulty and to ask it to check the number. She also reminded the Cabinet Office that requests could, strictly speaking, be made verbally under the Environmental Information Regulations and under data protection legislation which the Commissioner also regulates. It replied that it had itself checked the number and it appeared to be working.
9. On 21 May 2019, the Commissioner wrote to the Cabinet Office to ask a series of questions about how messages are picked up and acted upon as follows:

¹ <https://www.gov.uk/government/organisations/cabinet-office> (see Public Enquiries section)

- How regularly is the mailbox for that number checked?
- What are the Cabinet Office's timescales for following up an information access request made via the mailbox?
- What happens when the person/people who normally check the mailbox are unavailable/on leave?
- If someone leaves a telephone number, what happens if the first attempt to call them is unsuccessful?
- Is a log kept of messages received and actions taken to follow up messages left?
- Please provide any other relevant information about the monitoring of the mailbox.

10. Having not received a response by the date requested, the Commissioner chased a response to this on 23 July 2019. She reminded the Cabinet Office of her powers under section 51 of the Act and explained that she was seeking to make a determination regarding the Cabinet Office's compliance with section 16 of the Act.

11. Unfortunately, the Cabinet Office has yet to respond.

Information required

12. In view of the matters described above the Commissioner hereby gives notice that in the exercise of her powers under section 51 of the Act she requires that the Cabinet Office shall, within 30 days of the date of this notice, furnish the Commissioner with a copy of the following information:

A full and final response to the Commissioner's letter of 21 May 2019.

Failure to comply

13. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

Right of appeal

14. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836
Email: grc@Justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed

Elizabeth Hogan
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF